IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1392 OF 2004
IN
SECOND APPEAL NO. 657 OF 1989

Sahebrao Mahadeo Bagal & Ors. ...Applicants

Versus

Sarjerao Mahadeo Bagal & Ors. ...Respondents

.....

Pravin Mane i/b Uday Warunjikar for applicants.

S.P. Prabhu i/b N.V. Walawalkar for respondents.

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CORAM: A.S. OKA, J.

DATED: 12TH JANUARY, 2005

P.C.:-

1. This application is filed by the Appellants in Second Appeal. The first prayer is for condonation of delay in filing application for bringing on record the legal representatives and deceased Respondent No.3 and for setting aside the order of abatement. In paragraph No.4 of the application, it is stated that the Applicant No.1/Appellant No.1, Respondent Nos. 1 and 2 in the Civil Application and in Appeal are the only legal representatives of the deceased Respondent No.3. In view of this statement prayer clause (a) deserves to be granted.

2. Prayer (b) is for grant of stay to the execution

and operation of the impugned judgment and decree. In Second Appeal of the year 1989 such prayer cannot be entertained in the year 2005, hence, prayer clause (b) cannot be granted.

3. Civil Application is made absolute in terms of prayer clause (a). Rest of the prayers stand rejected. Amendment to be carried out within a period of two weeks from today. Place the Second Appeal for final hearing on 27.1.2005.